



**UNITED STATES DEPARTMENT OF COMMERCE**  
**United States Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/034,286	03/04/98	FALB	D 7853-114

PENNIE & EDMONDS  
1155 AVENUE OF THE AMERICAS  
NEW YORK NY 10036

HM12/0522

EXAMINER
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NGUYEN, D	
ART UNIT	PAPER NUMBER

1633  
DATE MAILED:

18  
05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Notice of Abandonment

Application No.  
09/034,286

Applicant(s)

Falb et al.

Examiner

Dave Nguyen

Art Unit

1633



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ No response has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance.
  - (b) ☐ The submitted issue fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.

The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d) is \$ \_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file new formal drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed new formal drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ The proposed new formal drawings filed on \_\_\_\_\_ are not acceptable and the period for reply has expired.
  - (c) ☐ No proposed new formal drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

*In view of the filed CPA request filed September 5, 2000, which filing of the CPA made the application becoming a new continuing application having a new filing date of Sep. 5, 2000, the filing of any new CPA request such as one dated April 23, 2000 is improper, particularly since CPA practice is restricted to utility applications filed before May 29, 2000. As a result, case is abandoned due to a failure to file a proper reply to the non-final Office action dated 10/24/00 within the allowed time period that includes the 3 months extension of time. The examiner called Attorney Steve Sina to notify applicants will consider submitting a petition to revive the case.*

DAVE T. NGUYEN  
PRIMARY EXAMINER